

Applicant: Ducasse
Serial No.: 10/625,806
Page 9

REMARKS

Claims 1, 2, 4-11, 14, 15, 17, 18, 22, 23, 24-27, and 29-40 are now pending in this application. Claims 1, 4, 5, 6, 8, 14, 15, 17, 18, 27, 29-31 and 36-38 have been amended. Claims 3, 12, 13, 16, 19-21 and 28 have been cancelled. Applicant submits that no new matter has been added. Reconsideration is respectfully requested in view of the following remarks.

Claims 1-8, 11-13, 15-17, 19, 20-23, 25-30 and 32-34 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Applicant's admission of prior art, page 1, paragraph 4 (APA) in view of U.S. Patent Application No. 2003/0119463 to Lim (Lim).

Claims 9, 10, 18, 21, 24 and 31 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over APA and Lim in view of U.S. Patent No. 5,323,423 to Townsend (Townsend).

Claims 14 and 35 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over APA and Lim in view of U.S. Patent Application No. 2004/0060065 to James.

Claims 36-40 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over APA and Lim in view of U.S. Patent Application No. 2004/0214537 to Bargroff.

Claims 27-29 were found objectionable due to a few minor informalities. As set forth above, Applicant has amended claims 27 and 29 to conform to the Examiner's comments. Claim 28 has been cancelled. Accordingly, Applicant respectfully requests withdrawal of this objection.

103 Rejection based on APA and Lim

Initially, the Examiner states that APA at page 1, paragraph 4 in view of Lim renders claims 1-8 as obvious. In regard to claim 1 Examiner asserts that APA teaches elements of claim 1 specifically an antenna and a decoder but does not disclose a method based upon the analysis of IF signals to the device in order to maintain an acceptable IF signal. The Examiner cites to Lim as teaching a method of analyzing a RF receiver and based on the analysis of IF signals sending a

command to the active device in order to maintain an acceptable IF signal. Again, Applicant is uncertain as to where in the APA that the teachings as alleged by the Examiner are disclosed. Examiner cites to page 1, paragraph 4 as disclosing in the elements of an antenna and a decoder, however Applicant discusses the prior related art starting at page 1 at line 12 (second paragraph) through page 5, line 2. Applicant will therefore address the rejection based upon the Applicant's review of the prior art as set forth on pages 1-5 of the application. Moreover, the Examiner throughout this rejection of claims 1-8, 11-13, 15-17, 19, 20-23, 25-30, and 32-34 refers to each reference of APA to page 1, however page 1 of Applicant's application contains two paragraphs of text but the Examiner has referenced page 1 as having paragraphs 4, 5 and 7.

Applicant discusses the prior art in the specification under the section, Description of Related Art (DRA), pages 1-5 and decoders are discussed at page 1, lines 12-15 as having a single range from -70dBm to -20dBm. The DRA however fails to discuss or describe a decoder that receives or analyzes IF signals. Moreover in contrast, in the Applicant's description of the present invention at page 12, lines 7-9, Applicant discloses a decoder that actively monitors the signal strength received however this in association with Applicant's present invention and not with any prior art. Accordingly the Examiner has improperly used Applicant's description of how Applicant's present invention works to support this obviousness rejection, see In re Glaug, 283 F.3d 1335, 62 USPQ 2d at 1151, 1155 (Fed. Cir. 2002) (inventor's explanation of how the invention works cannot be used to support an obviousness rejection). Accordingly the Examiner references to APA cannot be used to support this obviousness rejection, because Applicant's discussion of the prior art does not include any description of a decoder that receives and analyzes IF signals.

Claims 2-8 depend upon claim 1 and accordingly the APA as described by the Examiner cannot be used to support this obviousness rejection for at least the same reasons as discussed above. Furthermore, in regard to the features as recited in claims 4 and 5, the Examiner cites to the

APA as providing support for these features citing to page 1, paragraph 7. As stated above, page 1 of Applicant's application recites two paragraphs and this citation is beyond the Applicant's understanding. Furthermore, if the Examiner refers to these features as being disclosed in the Applicant's discussion of prior art within the DRA, such an assertion is incorrect. The features cited in claim 4 include at least one amplifier applying gain to RF signals based upon commands from a decoder and in regard to claim 5 at least one amplifier applying gain onto IF signals based upon commands from a decoder. The Examiner's assertion of prior art is simply not found within the Applicant's DRA. However under Applicant's description of the present invention, Applicant discloses the use of the decoder commands to control a HCC antenna, see page 9 lines 4 through 10. Again as stated above the Examiner's citation to the inventor's description of his present invention as prior art is improper.

Also under section 2 of the Office Action, which starts on page 2 and continues through page 7, the Examiner sets forth similar rejections for claims 30 and 33. The combination of APA and Lim cannot be used to support the rejection of claims 30 and 33 for at least the same reason set forth in claims 1-8.

The Examiner cited to Lim for disclosure of method of analyzing IF signal and RF receiver based on analysis of the IF signal's sending command to the active device in order to maintain an acceptable IF signal. In regard to claims 11 and 34, the Examiner cites to the combination of APA and Lim for disclosing all the elements in said claims. Examiner notes that a method of using DiSEqC process for commands is not disclosed in either APA or Lim. The Examiner initially stated that the Examiner takes official notice of the DiSEqC commands as being well known standard in satellite communications. In the Office Action of March 30, 2006, the Examiner states that U.S. Patent Application No. 2004/0028149 to Kraft et al. ("Kraft") has been provided for teaching the use of DiSEqC, however the Examiner fails to specifically cite this reference as a basis

of the obviousness rejection. This reference demonstrates another insufficiency associated with the combination of APA and Lim to support this obviousness rejection. Lim relates to an apparatus and method for processing a RF signal at a receiver at a base station in a mobile communication system, see paragraph 3 of Lim. As noted by the nomenclature used in Lim, i.e., base station and mobile communication system, is related to cellular telecommunications. In contrast the present invention is directed toward satellite transmission networks and the reception and collection of Lband distribution for terrestrials transmissions. Accordingly Lim is not analogous art to the present invention or to any prior art as discussed in the Applicant's application.

In regard to the Examiner's mentioning of Kraft, Applicant respectfully requests that the Examiner indicate whether or not this reference is used specifically to support this obviousness rejection or otherwise. Applicant maintains that statement of official notice in regard to claims 11, 26 and 34 as later noted in the Office Action is an improper conclusory statement without showing of some teaching or suggestion to make a substitution and does not sufficiently support an obvious rejection under 103. To the extent the Examiner intends to maintain the conclusory assertions in regard to the DiSEqC commands it respectfully requested to pursuant to 37 C.F.R. §1.104(d)(2) that the Examiner provide an affidavit or published reference that clearly supports the Examiner's assertions. If the Examiner cannot provide such support this rejection should be withdrawn. Further note the M.P.E.P. §2144.03 states, "it would not be appropriate for the examiner to take official notice of facts without citing a prior art reference where the facts asserted to be well known are not capable of instant and unquestionable demonstration as being well-known. For example, assertions of technical facts in the areas of esoteric technology or specific knowledge of the prior art must always be supported by citation to some reference work recognized as standard in the pertinent art. In re Ahlert, 424 F.2d at 1091, 165 USPQ at 420-21. See also In re Crose, 592 F.2d 1161, 1167-68, 201 USPQ 57, 63 (CCPA 1979)."

Applicant maintains his objection to the Examiner's use of any of the Applicant's own description of the prior art as support for the 103 rejection of claims 1-8, 11, 15, 17, 22-23, 25-27, 29, 30, and 32-34. As stated in the prior Office Action and again above, Applicant's description of the prior art was improperly used by the Examiner in order to support this obviousness rejection. The inventor's explanation of how the invention works does not render said invention obvious. Specifically, the Examiner has readily admitted in the Office Action that the APA does not disclose a decoder that analyzes IF signals.

With respect to the remaining substantive portion of the Examiner's rejection, the Examiner has rejected independent claims 1, 15 and 30 based upon the combination of APA and Lim relying on the disclosure of certain elements from the alleged APA and other elements being disclosed in Lim. Although, the Examiner has asserted that it is impermissible to argue the references individually, Applicant directs this argument to the Examiner's comments where the Examiner specifically relies upon the cited references for disclosing specific elements of Applicant's claimed invention. Accordingly, Applicant maintains that in order for a combination of references to provide support for an obviousness rejection each and every element of the claimed invention must be disclosed in the combination thereof. See, *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974).

As noted above, independent claims 1, 15 and 30 have been amended. The amended claims provide a more clear recitation of Applicant's invention. Specifically each claim now recites a plurality of IF and RF signal amplification stages which are selectively activated based upon feedback commands. The present invention selectively activates or deactivates the amplification stages to provide an optimum level of IF signal to the decoder. In contrast, the Examiner cites to the Lim reference for analyzing a IF signal and sending a command to maintain an acceptable IF signal. The only feedback command in the Lim reference simply directs the RF signal through

amplifiers 110, 120 and 130 or bypasses the amplifiers based upon the feedback commands, see paragraph 0025 of the Lim reference. Also, all the amplifiers disclosed in Lim are on the RF signal side of the mixer 140, see Figure 4 of Lim. The present invention advantageously may activate or deactivate amplification stages associated with either the RF or IF signal based upon feedback commands. The combination of APA and Lim therefore fails to disclose each and every element of the independent claims 1, 15 and 30. Therefore Applicant respectfully requests withdrawal of this rejection as directed toward claims 1, 15 and 30. With respect to the remaining claims under this rejection, claims 2-8, 11, 17, 22, 23, 25-27, 29, and 32-34, all depend from independent claims 1, 15 and 30, therefore these dependent claims stand allowable for at least the same reasons stated above with respect to independent claims 1, 15 and 30. Withdrawal of this rejection with respect to the dependent claims is therefore respectfully requested.

103 Rejection based on APA and Lim in view of Townsend

Claims 9, 10, 18, 24, and 31 all stand rejected based upon the combination of APA and Lim in view of Townsend. Under this rejection the Examiner cites Townsend for disclosing at least one amplifier applying a gain of about 20 dB to about 91 dB. Initially, Townsend relates a pulse width controlled adaptive equalizer as provided for telecommunication signals routed through coaxial cables. Townsend teaches the use of an adaptive equalizer that operates on the premise that coaxial cable degrades a telecommunication signal by widening the pulse of a signal and decreasing the amplitude. The adaptive equalizer taught in Townsend detects the width of the pulse against a desired width and feeds back the difference to a variable filter which can correct the pulse width. Although the Examiner asserts that Townsend is within the same field of endeavor as the present invention, Applicant respectfully states that Townsend fails to be analogous to the present invention or to the APA as referenced by the Examiner.

To establish prima facie obviousness of a claimed invention, all claims limitations must be taught or suggested by the prior art. In re Royka, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974). Notwithstanding Townsend's status as non-analogous art and it also fails to disclose the recited range as set forth in claims 9, 10, 18, 24, and 31. Townsend discusses a function of a AGC amplifier to provide a linear transfer function with respect to the input voltage where a 20 dB is preferably used to gain the signal to a nominal level of .6 volts peak to peak. In contrast, the above claims as now amended, recite at least one amplifier applying a gain of about 25 dB to 91 dB. Townsend therefore fails to teach or disclose the recited range set forth in the claims. Therefore the use of Townsend to support this feature is improper and cannot support an obviousness rejection. Based on the forgoing, it is respectfully submitted that the combination of APA, Lim and Townsend cannot support this obviousness rejection.

103 Rejection based on APA and Lim in view of James

The Office Action sets forth a rejection of the claims 14 and 35 under 103 based upon a combination of APA and Lim in view of James. Claim 14 is a dependant claim which depends essentially from claim 1 and claim 35 is a dependant claim that depends essentially from claim 30 and therefore the combination of APA and Lim cannot support an obviousness rejection for at least the same reasons as set forth in regard to claims 1 and 30. Notwithstanding the reasons set forth above in regard to claims 1 and 30, the Office Action cites to James for disclosure of commands and IF signals transmitted upon a single wire connecting the decoder and antenna. James relates to a direct broadcast system of any high altitude communication device that transmits broadcast signals which are received by antenna as provided. James specifically teaches the use of a outdoor unit electronically coupled to an antenna that selects a desired frequency of the broadcast signals. The integrated receiver and decoder are electronically coupled to the outdoor unit receiver via a

Applicant: Ducasse
Serial No.: 10/625,806
Page 16

single distribution cable. It is noted that claims 14 and 35 refer to commands sent from a decoder to selectively activate at least one RF or IF signal amplification stage. The Office Action states that James teaches a method where signals are transmitted via a single distribution cable. James as set forth by the Examiner therefore fails to equate to the features set forth in claims 14 and 35 which specifically recite commands and IF signals transmitted upon a single wire. Examiner fails to set forth a recitation in James which relates to commands being set upon a single wire and merely recites to wire used for the transmission of signals. Accordingly, even if the combination of APA and Lim were proper, James cannot support the further features set forth in claims 14 and 35 and therefore cannot be used to support this obviousness rejection. Based on the foregoing, Applicant respectfully requests that this obviousness rejection be withdrawn.

103 Rejection based on APA and Lim in view of Bargroff

The Office Action states that APA discloses a plurality of antennas and plurality of master decoders, as set forth in claim 36. Further the Office Action states that APA does not disclose methods based on the analysis of IF signals of sending a command to the active device in order to maintain an acceptable IF signal. The Examiner cites to Lim for teachings of a method of analyzing IF signals in a RF receiver and sending a command to an active device in order to maintain an acceptable IF signal. Initially this combination of APA and Lim fails for at least the same reasons set forth in regard to claims 1 and 30. The Applicant's discussion of prior art simply fails to discuss a plurality of master decoders where the master decoder sends commands to each respective active device as recited in claim 36. Moreover the APA, as cited by the Examiner fails to discuss the plurality of antennas as recited in claim 36. Figure 10 of the Applicant's application as shown and discussed at page 17, line 14 through page 18, line 11 discusses the plurality of antennas and master decoders as recited in claim 36. This discussion of the plurality of antennas and master decoders

relates specifically to the Applicant's present invention and does not relate to any prior art. Accordingly Examiner's use of the Applicant's own description of the present invention is improper.

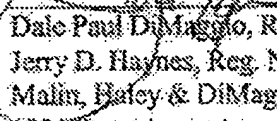
The Examiner cites to Bargroff for teaching the use of a distribution switch between the antenna and the end user decoders. Bargroff however fails to address the deficiencies noted above with the citation of APA and Lim in combination and therefore the combination of the three allegedly prior art references cannot support an obviousness rejection. Bargroff relates to a AGC amplifier method of distributing signals in a signal distribution system. However Bargroff fails to describe or disclose the use of a plurality of master decoders where each master decoder receives and analyzes the respective IF signals from each antenna and sends back commands to the active device in order to maintain acceptable IF signal. Accordingly the combination of APA, Lim, and Bargroff fails to support this obviousness rejection. Based on the forgoing, Applicant respectfully requests that this rejection be withdrawn.

Applicant: Ducasse
Serial No.: 10/625,806
Page 18

CONCLUSION

Based upon the foregoing remarks, Applicants respectfully submit that the pending claims are in condition for allowance. Prompt allowance of all pending claims is therefore requested. If there are any additional charges, including extension of time, please bill our Deposit Account No. 13-1130.

Respectfully submitted,



Dale Paul DiMaggio, Reg. No. 31,823
Jerry D. Haynes, Reg. No. 42,646
Malin, Haley & DiMaggio, P.A.
1936 S. Andrews Ave.
Fort Lauderdale, Florida 33316
Tel: 954-763-3303
Fax: 954-522-6507
E-Mail: info@mhdpatents.com